

HOUSE BILL No. 1355

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-17; IC 10-11-10-2; IC 34-30-2.1-2.5.

Synopsis: Child sexually abusive materials. Authorizes the attorney general to assess a civil penalty of \$1 million on a corporation with a market capitalization of at least \$100 billion for each instance in which the corporation knowingly makes available child sexually abusive material, and establishes a procedure for the investigation of a complaint relating to child sexually abusive material. Establishes the child sexually abusive material facilitation prevention fund. Specifies that money in the fund shall be used to: (1) fund the Internet crimes against children fund; and (2) offset forgone tax remittances. Makes an appropriation.

Effective: July 1, 2024.

Morris, Speedy, Judy

January 10, 2024, read first time and referred to Committee on Judiciary.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1355



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-17 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2024]:
4 **Chapter 17. Civil Penalty for Child Sexually Abusive Material**
5 **Sec. 1. As used in this chapter, "active uniform resource locator**
6 **(URL)" means a URL link, whether part of a website or an**
7 **Internet connected device, that when clicked will direct the user to**
8 **child sexually abusive material.**
9 **Sec. 2. As used in this chapter, "child" means a person less than**
10 **eighteen (18) years of age.**
11 **Sec. 3. As used in this chapter, "child sexually abusive material"**
12 **means material displaying sexual conduct that violates 18 U.S.C.**
13 **1591.**
14 **Sec. 4. As used in this chapter, "corporation" means a**
15 **corporation that has a total stock market capitalization of at least**
16 **one hundred billion dollars (\$100,000,000,000).**
17 **Sec. 5. As used in this chapter, "Internet crimes against children**



1 fund" means the Internet crimes against children fund established
2 by IC 10-11-10-2.

3 Sec. 6. As used in this chapter, "made available" means
4 transmitted, stored, hosted, or in any way facilitated, including
5 providing an active uniform resource locator (URL) link.

6 Sec. 7. As used in this chapter, "prevention fund" means the
7 child sexually abusive material facilitation prevention fund
8 established by section 12 of this chapter.

9 Sec. 8. As used in this chapter, "sexual conduct" has the
10 meaning set forth in IC 35-42-4-4.

11 Sec. 9. (a) If the attorney general determines that a corporation
12 knowingly made available for viewing child sexually abusive
13 material, the attorney general may assess a civil penalty of one
14 million dollars (\$1,000,000) for each instance in which the
15 corporation made available for viewing the child sexually abusive
16 material in the previous three (3) months.

17 (b) The attorney general may assess a civil penalty under this
18 section if an Internet browser is directed to a website containing
19 child sexually abusive material, regardless of whether the Internet
20 browser was directed to the exact location on the website where the
21 child sexually abusive material was located.

22 (c) If more than one (1) corporation is involved in making
23 available for viewing child sexually abusive material during a
24 single instance, the attorney general may assess the civil penalty
25 described in subsection (a) on each corporation.

26 (d) The attorney general may assess a civil penalty on a specific
27 corporation not more than one (1) time every three (3) months.

28 (e) The attorney general shall deposit the civil penalty in the
29 prevention fund.

30 (f) The attorney general may accept consumer reports
31 identifying the:

32 (1) location, including an active uniform resource locator
33 (URL); or

34 (2) description;

35 of child sexually abusive material made available by a corporation
36 to which this chapter applies.

37 (g) A report made under subsection (f) is confidential for
38 purposes of the public records law.

39 (h) Upon receipt of a relevant complaint, the attorney general
40 shall notify the corporation of the child sexually abusive material
41 made available, at least in part, by the corporation.

42 (i) If the corporation fails to remove the child sexually abusive



1 material not later than twenty-four (24) hours after receiving
 2 notice from the attorney general, there is a presumption that the
 3 corporation has made the child sexually abusive material available
 4 for viewing knowingly.

5 **Sec. 10.** The attorney general and any employee of the attorney
 6 general are immune from civil and criminal liability that relates to
 7 the investigation of child sexually abusive material under this
 8 chapter.

9 **Sec. 11.** The attorney general may do any of the following when
 10 conducting an investigation under this chapter:

11 (1) Issue and serve a subpoena for the production of records,
 12 including records stored in electronic data processing systems,
 13 for inspection by the attorney general.

14 (2) Issue and serve a subpoena for the appearance of a person
 15 to provide testimony under oath.

16 (3) Apply to a court with jurisdiction to enforce a subpoena
 17 described in this section.

18 **Sec. 12. (a)** The child sexually abusive material facilitation
 19 prevention fund is established for the purpose of receiving, holding,
 20 and disbursing funds from civil penalties assessed under this
 21 chapter.

22 (b) The fund shall be administered by the attorney general.

23 (c) The expenses of administering the fund shall be paid from
 24 money in the fund.

25 (d) The treasurer of state shall invest the money in the fund not
 26 currently needed to meet the obligations of the fund in the same
 27 manner as other public money may be invested.

28 (e) Money in the fund shall be disbursed as follows:

29 (1) The first one hundred million dollars (\$100,000,000)
 30 deposited in the fund shall be transferred to the Internet
 31 crimes against children fund to be used to fund the
 32 investigation of a corporation.

33 (2) Money deposited in the fund that is not allocated under
 34 subdivision (1) shall be transferred to the state general fund
 35 to offset dollar for dollar the loss of tax revenue that would
 36 have been remitted to the state in the previous state fiscal year
 37 if not for the reduction of the applicable tax liability for a tax
 38 imposed on income due to the assessment of a civil penalty
 39 under this chapter.

40 (3) Money deposited in the fund that is not allocated under
 41 subdivision (1) or (2) shall be transferred to the state general
 42 fund to offset dollar for dollar the loss of tax revenue that



1 would have been remitted to the state in the previous state
 2 fiscal year if not for the reduction of the applicable tax
 3 liability for a tax imposed on sales due to the assessment of a
 4 civil penalty under this chapter.

5 **(f) Money remaining in the fund:**

- 6 (1) after the transfers described in subsection (e); and
 7 (2) at the end of a state fiscal year;

8 shall be transferred to the state general fund.

9 **(g) Money in the fund is continually appropriated for the**
 10 **purposes specified in this chapter.**

11 **Sec. 13. IC 4-21.5 applies to an action under this chapter.**

12 SECTION 2. IC 10-11-10-2, AS ADDED BY P.L.165-2021,
 13 SECTION 135, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) The Internet crimes against
 15 children fund is established.

16 (b) The fund consists of appropriations from the general assembly
 17 **and money transferred from the child sexually abusive material**
 18 **facilitation prevention fund (IC 4-6-17-12).**

19 (c) The fund may be used only for the purposes described in
 20 sections 3 and 4 of this chapter. **However, money transferred from**
 21 **the child sexually abusive material facilitation prevention fund**
 22 **must be used for the investigative purpose described in**
 23 **IC 4-6-17-12(e)(1).**

24 (d) The fund shall be administered by the department.

25 (e) The expenses of administering the fund shall be paid from
 26 money in the fund.

27 SECTION 3. IC 34-30-2.1-2.5 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2024]: **Sec. 2.5. IC 4-6-17-10 (Concerning the**
 30 **attorney general's investigation of child sexually abusive material).**

